

PATENT/Docket No. 00661.US1
Serial No. 10/687,986
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit : 1654
Examiner : Satyanarayan R. Gudibande
Applicant(s) : N.J. Britten et al.
Serial Number : 10/687,986
Filed : 10/17/2003
For : Dispersible Pharmaceutical Compositions

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO ELECTION/RESTRICTIONS; ELECTION OF SPECIES

Sir:

This communication is in reply to the Election/Restrictions; election of species mailed on February 2, 2007.

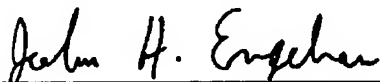
With regard to claim 5-15 Applicant elects ceftiofur hydrochloride as the antibacterial substance. With regard to claims 21-25, Applicant elects pegicol 5-oleate (for example labrafil M-1944 CS) as the amphipathic oil. With regard to claims 26, 27 and 27 Applicant elects cottonseed oil as the non-aqueous carrier substance.

Applicant respectfully traverses all three election/restriction requirements. A restriction requirement is proper when a patent application claims more than one patentably distinct invention. Ceftiofur hydrochloride is the subject of an issued US Patent. Accordingly, ceftiofur hydrochloride is patentably distinct from some other antibacterial substances. However, Applicant is not claiming antibacterial substances. Applicant is claiming a pharmaceutical composition, which contains an antibacterial substance. Pharmaceutical compositions of the present invention containing different antibiotic substances are not patentably distinct inventions, but are rather different embodiments of the same invention. Similarly changing the amphipathic oil or the oil carrier does not result in patentably distinct inventions, but rather embodiments of the same invention.

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Applicant respectfully submits that the pharmaceutical compositions of the present invention derive their properties from the composition of the claimed vehicle and not the antibiotic, the particular amphipathic oil, or the non-aqueous carrier.

Respectfully submitted,



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